

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	)	CASE NO. 8:07CR199
	)	
Plaintiff,	)	
	)	
v.	)	<b>BRIEF IN SUPPORT OF MOTION</b>
	)	<b>TO SUPPRESS</b>
	)	
HAROLD STULTS,	)	
	)	
Defendant.	)	

On February 27, 2007, United States Magistrate Judge Thomas D. Thalken issued a search warrant for the Defendant's home. This search warrant was based upon an Application and Affidavit which was prepared by Special Agent Brent Morral of the Department of Homeland Security, Immigration and Customs Enforcement. The Defendant submits that the affidavit for the search warrant fails to set forth sufficient facts to constitute probable cause. Therefore, the issuance of the search warrant violates the Defendant's rights under the Fourth Amendment to the United States Constitution.

In Illinois v. Gates, 462 U.S. 213 (1983), the Court adopted the totality of the circumstances test to guide magistrates in determining whether to issue a search warrant. A search warrant will be upheld if there is a substantial basis for the finding of probable cause. Thus, the affidavit in support of the search warrant must state sufficient facts for the court to conclude that there is a reasonable probability that evidence of a crime will be located in the place to be searched.

The Defendant asks this Court to review the affidavit in support of the search warrant and find that it is insufficient to support a finding of probable cause. If so, the issuance of

the search warrant violated the Defendant's rights under the Fourth Amendment. All evidence that was obtained as a result of the search warrant should be suppressed.

Respectfully submitted,

HAROLD STULTS, Defendant,

By: s/ David R. Stickman

**DAVID R. STICKMAN**

**Federal Public Defender**

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**CERTIFICATE OF SERVICE**

I hereby certify that on July 18, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following: Michael Norris, Assistant United States Attorney, Omaha, NE.

s/ David R. Stickman